

Assembly Bill No. 2220

Passed the Assembly August 29, 2008

Chief Clerk of the Assembly

Passed the Senate August 27, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 1371.395 to the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

AB 2220, Jones. Health care service plans: emergency room physicians and surgeons: contracts.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law requires that contracts with providers, among others, be fair, reasonable, and consistent with the objectives of the act, and provide a fast, fair, and cost-effective dispute resolution mechanism.

With respect to contracts being negotiated between emergency physicians or emergency physician groups and health care service plans or risk-bearing organizations, this bill would authorize either party to the contract negotiations, on a one-time basis per contract negotiation, to invoke a mandatory mediation process to assist in resolving any remaining issues in the contract negotiations. The bill would require specified notice to be given by a party who initiates such a contract negotiation. The bill would require the parties to the mediation to share equally in the costs of the mediation and would require the mediation to meet certain requirements. The bill would authorize the parties, upon completion of the mediation, to continue their negotiations or to terminate their negotiations.

Because this bill would impose additional requirements on health care service plans under the Knox-Keene Health Care Service Plan Act of 1975, the willful violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) The peaceful resolution of disputes and successful negotiation of contracts between emergency physicians and health care service plans or risk-bearing organizations would further California's policy objective of effectively serving Californians when they face an emergency medical situation.

(b) Mutually agreed-upon contracts between emergency physicians and health care service plans or risk-bearing organizations avoid the problem of balance billing where consumers are placed in the middle of payment disputes between emergency physicians and health care service plans or risk-bearing organizations.

(c) Mediation can reduce the cost, time, and stress of dispute resolution, and has been effectively used in California and elsewhere. In appropriate cases, mediation provides parties with a simplified and economical procedure for obtaining prompt and equitable resolution of their disputes and a greater opportunity to participate directly in resolving these disputes. It is in the public interest for mediation to be encouraged and used where appropriate.

(d) The purpose of this act is to encourage the successful negotiation of contracts between emergency physicians and health care service plans or risk-bearing organizations via the use of mediation between the parties.

SEC. 2. Section 1371.395 is added to the Health and Safety Code, to read:

1371.395. (a) If a health care service plan or a risk-bearing organization is negotiating a contract with an emergency physician or emergency physician group, any party to the negotiations may, on a one-time only basis per contract negotiation, invoke a mandatory mediation process to assist in resolving any remaining issues in the contract negotiations.

(b) The party who initiates a contract negotiation, as described in subdivision (a), shall give clear and conspicuous written notice to all other parties to the negotiations of the right to invoke mandatory mediation pursuant to this section at the time of initiating contract negotiations.

(c) (1) When a party invokes the mandatory mediation process pursuant to subdivision (a), the parties to the negotiation shall attempt to find a mutually agreeable mediator.

(2) If the parties are unable to agree upon a mediator within 15 days of the date upon which a party invokes mediation under this section, a mediator shall be randomly selected by the department from a list of qualified mediators maintained by the department. The department's minimal costs incurred pursuant to this paragraph shall be considered an operating cost of the department.

(d) The parties to mandatory mediation under this section shall share equally in the costs of mediation.

(e) For emergency physician groups negotiating a contract for two or fewer hospital locations, mediation pursuant to this section shall be for no less than two hours. For emergency physician groups negotiating a contract for three or more locations, mediation pursuant to this section shall be for no less than four hours. By mutual agreement, the parties can extend the length of the mediation beyond the minimum times set forth in this subdivision.

(f) At least one person with the legal authority to enter into a contract that is the subject of the negotiation shall be present for the duration of the mediation on behalf of each party to the mediation.

(g) All mediation proceedings under this section shall be confidential, and shall be subject to the confidentiality provisions set forth in Chapter 2 (commencing with Section 1115) of Division 9 of the Evidence Code.

(h) Upon the completion of the mediation process under this section, the parties to the mediation may choose to continue their negotiation or may terminate the negotiation.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2008

Governor